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PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Arellano	)	
	)	
Temperature-Controlled Flexible Optical Circuit for Use in an Erbium-Doped Fiber Amplifier and Method for Fabricating the Flexible Optical Circuit	)	Primary Examiner: T. Wong
	)	Art Unit: 2874
	)	
App. No.: 10/730,460	)	March 17, 2006

DECLARATION UNDER 37 C.F.R 1.132

Dear Sir:

I, Ronn Brashear, declare as follows.

1. This declaration is in response to comments made by the Examiner in the Final Office Action dated November 17, 2005.

CREDENTIALS

2. I currently manage an eleven developer team at Tellme Networks and who architect and develop Tellme's information network. I design and own many Tellme products including the multi-tiered network for logging, data storage and warehousing, information mining, service and hardware/network/service monitoring, analytics and client reporting, all service billing, system and application tuning data marts, SLA tracking, service provisioning, and channel communication layers. The projects are based on a variety of technologies and provide services with 99.9995% availability.

3. I received my M. S. E. from the University of Texas at Austin on 12/92. I focused on computer aided circuit design and simulation algorithms. My Masters thesis addressed visualization of large data sets in CAD algorithms. I implemented a variety of circuit design and simulation projects including a C++ compiler to create fault tolerant processes, a multi-valued parallel fault simulator, and extended a commercial concurrent hierarchical fault simulator.

4. During my Masters research, I worked at the MicroComputer Consortium (MCC). There I implemented a variety of simulator algorithms such as the LAVA bipartite graph homomorphism algorithm and ported larger projects from LISP to C++.

5. I received my B. S. E. E. from the University of Texas at Austin on 12/88. I studied software and hardware design for digital and analog circuitry. I implemented a variety of electronic components and software tools for academic and commercial use including a software trace generator to feed simulators based on either actual executing processes or Markov models, Theoretical Chemistry CAI tools and lab equipment, robotics for a nutrition lab, and others.

6. I received my Ph.D. from the University of Texas at Austin on 12/94. In the Electrical and Computer Engineering Department, my thesis was entitled "Mapping Real Valued Cost Functions onto Boolean Algebras." I moved my research to industry at Motorola and Intel where it was applied to chip and component circuit designs. I also taught several courses at AMD, IBM, and Motorola on my areas of expertise.

7. I served as an Expert Witness for Taylor and Dunham on four occasions:

06/99 Demonstrated appropriation of intellectual property for oil-finding software.

11/99 Evaluated architecture of 2/3 tier distributed HR scheduling system.

01/00 Evaluated correctness of 2 tier database tool and UI.

03/05 Evaluated and compared two distributed rating systems.

8. I served as an Expert Witness for Weycer, Kaplan, Pulaski, & Zuber evaluating software duplication.

ANALYSIS OF YOSHIDA

9. Based on my knowledge of the relevant art, patent 6,567,600 B2 (Yoshida) does not address the art/engineering for fabricating a flexible optical component. Specifically, starting on column 1, line 57, Yoshida properly identifies a constraint that the EDF be planar, "without bending and crossing." To maintain this configuration, Yoshida specifies rigid substrate made of three layers of film on column 4, lines 12 through 16. Yoshida's intent is to prevent twisting,

bending and crossing, requiring the device to be inflexible.

10. Yoshida's design relies on Peltier effect devices to provide constant temperature and steady the gain. In column 3, line 51 to 54, Yoshida specifies Peltier effect devices as the substrates. These plate devices are inflexible, normally encased in thermally appropriate ceramic materials. While they can withstand compression, they cannot withstand shear, bending, or flexing.

11. Yoshida does not address methods of securing the EDF to the substrate/film. Yoshida relies on the lamination of films to hold the EDF in proper configuration; column 4, lines 12 through 16 again. Without appropriate securing the EDF to the substrate securely, any flexion or bending of the substrate would lead to crossing lines of the EDF.

12. As an expert in the field, the Yoshida designs as specified in the patent, are not flexible. It is my belief that anyone skilled in the art would not characterize Yoshida's designs as even partially flexible. The Yoshida component cannot withstand shear or flexion.

I HEREBY DECLARE that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so-made are punishable by fine or imprisonment, under section 1001 of Title 18, United States Code, and that such willful false statements may jeopardize the validity of the application of any patent issued in reliance thereon.

Executed this seventeenth day of March, 2006, in Menlo Park, California.

Ronn Brashear, Declarant